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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,954	03/27/2007	Seiichi Kusano	80420(302760)	4105
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EXAMINER				
RUSSELL, CHRISTINA MARIE				
ART UNIT		PAPER NUMBER		
2837				
MAIL DATE		DELIVERY MODE		
11/12/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/564,954

Applicant(s)

KUSANO, SEIICHI

Examiner

CHRISTINA RUSSELL

Art Unit

2837

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,3 and 5-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,3 and 5-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 August 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

The amendments to figures 6 and 7 are accepted.

Specification

The amendments to the Specification and Abstract have been accepted.

Claims

The cancellation of claims 1 and 4, and the addition of claims 5-7, have been accepted

Claim Objections

1. Claim 7 is objected to because of the following informalities:
2. In line 4, "a second slat" should be "a second slant".
3. Appropriate correction is required.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 5 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Both claim 5 and 7 refer to "said engaging piece"; however, it is unclear whether this engaging piece is meant to be the first or second engaging piece. Please clarify the claim language.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 2 and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by the Japanese publication, provided by the Applicant, JP H04-34091 (henceforth referred to as '34091).
6. In terms of independent claim 5, '34901 teaches a speaker (S) and means for mounting said speaker to a plate (9). The speaker is easily mounted and removed

through a plurality of fixtures (20), at a plurality of fixing points, mounted on a speaker frame (6). Wherein each fixture (20) includes first (21) and second (23) engagers, arranged on opposite sides of the attaching plate (9), where each second engager is formed with an engaging piece, and a plurality of receivers (32) formed in said speaker frame so as to engage said first engagers. Lastly, '34901 shows the engaging piece as elastically passed through a fixed holes in said attaching plate and is elastically restored after passing through the fixed hole so as to clamp the attaching plate to the speaker frame. This elastically restoring process can be seen in the transition between Figures 1 and 2. (See Figures 1-3).

7. As for claim 2, '34091 teaches each fixture secured on the speaker frame by tightening a screw (31) in a screw hole, or hole for insertion of a screw (20c), formed in the first engager (21).

8. As for claim 6, '34901 further teaches an adapter (30) arranged between the attaching plate and the speaker frame.

9. As for claim 7, '34901 teaches each engaging piece having a first slant (8i) that is slanted in a spreading manner, a second slant (8j) that is slanted in a reducing manner from the top end of the first slant, and a top end face (8k) extending horizontally from the top end of the second slant (see Figure 2).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim3 is rejected under 35 U.S.C. 103(a) as being unpatentable over '34091 in view of the US patent to Novitschitsch (6,457,547).

12. '34091 teaches all the elements as presented above, but fails to teach the presence of a water drainage system, which drains water outward from the plate and through an internal space close to the lower end of the mounting system. Novitschitsch teaches a similar speaker mounting system, with a mounting plate, fixtures, having engaging members, or screws, a speaker frame, etc. Novitschitsch also provides a sealing lip that elastically deforms and restores during the mounting and removing process (see Figures 1 and 2, and column 1, lines 30-35, 41-48, and 54-56, column 2, line 6 – column 3, line 61). However, Novitschitsch, unlike '34091, provides a water drain (43), positioned on the lower end of the mounting device and extending away from the support, or plate. Since '34091 and Novitschitsch both teach similar speaker mounting elements, both for use in automobiles, it would have been obvious to attach the water drain of Novitschitsch in the same location on the '34091 mounting system.

13. It can also be seen in the patent application publication to Kiriara et al. (US 2004/ 0037445) (see paragraphs [0153-[0156], [0161], [0162], and [0169]) and the US

patents to Hayakawa et al. (6,128,394) (see column 8, lines 51-67), Kurihara et al. (6,987,860) (see column 1, line 45 – column 2, line 4), Skrychi (4,853,966) (see column 3, lines 37-44), and Chen (6,626,262), that providing a water drain or waterproofing means is common when mounting a speaker, in particular in a automobile door panel or trunk, where moisture is more prevalent and more likely to emerge or seep in. Lerma (US 2005/0091739) shows that water drains have also been used in spa speakers, to allow the moisture, from a steam room for example, to be drained away from the speaker to prevent damage. Water drains placed within speaker mountings have been seen throughout the art to provide protection for speakers mounted in high moisture areas.

Response to Arguments

14. Applicant's arguments filed 8/7/2008 have been fully considered but they are not persuasive.
15. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies are not recited in the rejected claim(s). For example, page 8 of the remarks, lines 10-13, state the screw hole is on the same side of the attaching plate as the speaker and speaker frame, as recited in claim 2,;however, this limitation does not appear in claim 2. Claim 2 merely states that the engagers are on opposing sides. Also on page 8, lines

16-17, it is recited that the second engager is elastically restored to its original shape, **even when the screw is tightened down in the first engager.** This limitation does not appear in the claims. Page 8, lines 21-22, it is stated that the screw hole is formed in the first engager, **which is on the same side of the attaching plate.** Again this limitation is not claimed. Lastly, the Applicant relies on four features which are cited as not being taught by the cited references; however, these four features, listed on page 9, do not appear in the claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
17. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTINA RUSSELL whose telephone number is (571)272-4350. The examiner can normally be reached on Mon-Fri, 7-4.

19. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Benson can be reached on 571-272-2227. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

20. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christina Russell/
Examiner, Art Unit 2837
11/6/2008

/Walter Benson/
Supervisory Patent Examiner, Art Unit 2837